

Navigating Health Systems Changes: Challenges and Priorities

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North Dakota & Minnesota

STD/HIV/TB/Hepatitis Conference

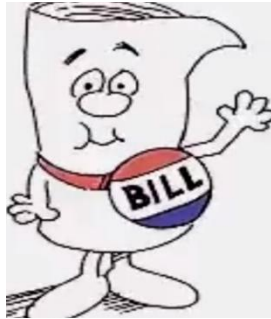
September 27, 2017

Overview of Presentation

1. ACA Repeal and Replace State of Play
2. Administrative Actions
3. State Actions
4. Questions and Discussion

ACA Repeal and Replace State of Play

ACA Repeal and Replace: Where We've Been...



Budget Reconciliation Process

- Can be used only for measures related to spending and revenue
- Only requires majority to pass Senate, with limited debate and amendment process

January 3, 2017: House and Senate Committees Receive Budget Reconciliation Instructions to Repeal and Replace

May 4, 2017: House Passes Amended

July 27, 2017:

BREAKING: Senate Majority Leader McConnell Announced Yesterday That the Senate Will NOT Vote on an ACA Repeal and Replace Bill This Week

November 8, 2016: Trump Elected President

March 24, 2017: House Fails to Pass ACA Repeal Bill (American Health Care Act Version 1.0)

July 25, 2017: Senate Passes Motion to Proceed to Begin Debate on Several ACA Repeal and Replace Bills

Sept. 30, 2017: Budget reconciliation authority expires

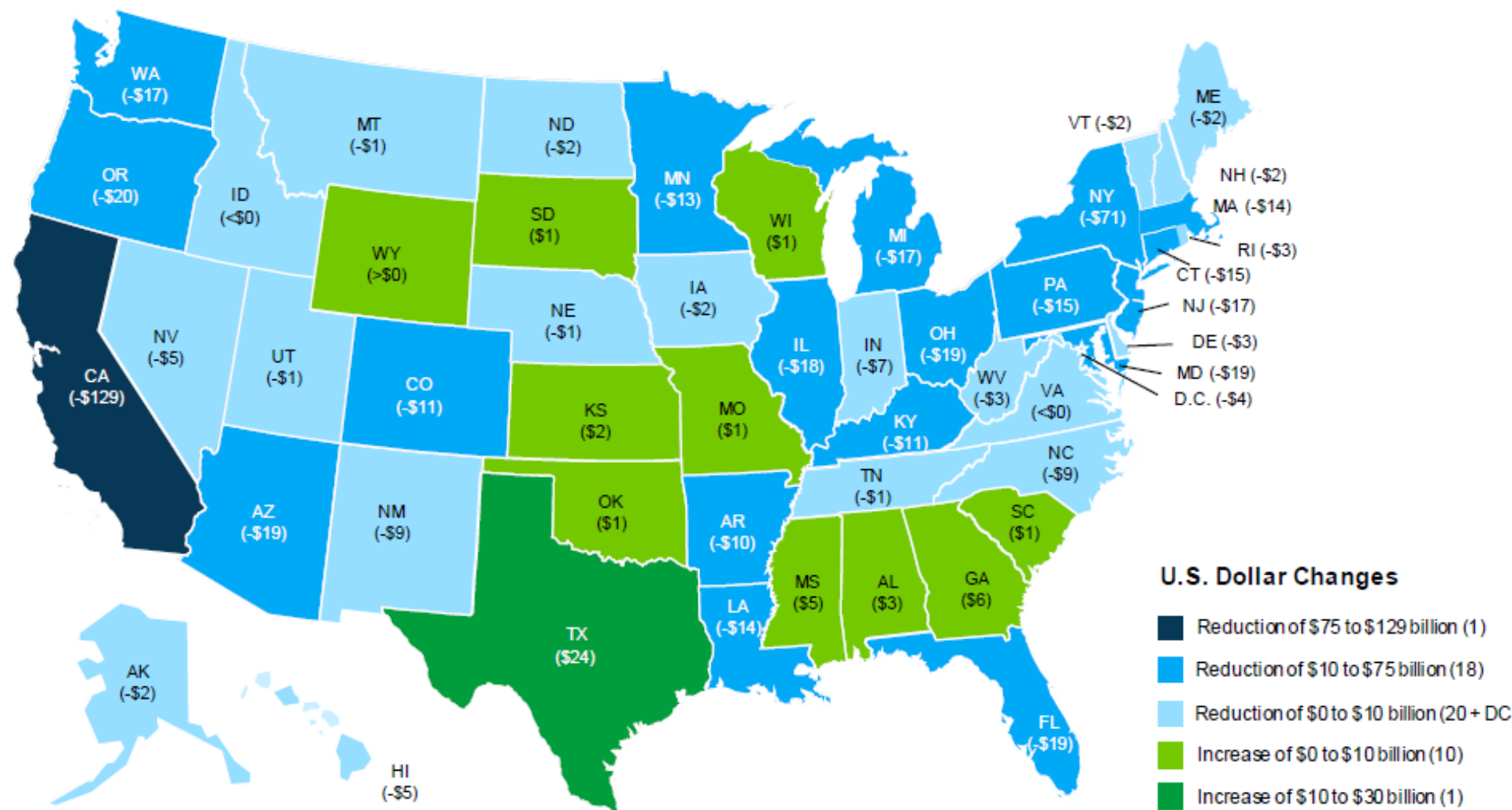
The Summer of Our Discontent

| | Medicaid Expansion | Medicaid Funding | Insurance Subsidies | EHB | Pre-existing Conditions | Individual Mandate |
|--|--|---|---|------------------|------------------------------|------------------------|
| American Health Care Act (House) | Eliminates | Per capita cap (\$835B in cuts over 10 years) | Maintains tax credits, but reduces | States may waive | States may waive protections | Eliminates immediately |
| Better Care Reconciliation Act (Senate) | Eliminates | Per capita cap (\$772B in cuts over 10 years) | Maintains tax credits, but reduces (less so than House) | States may waive | Maintains most protections | Eliminates immediately |
| Graham-Cassidy (Senate) | Eliminates (replaces with block grant) | Per capita cap (no CBO score) | Eliminates (replaces with block grant) | States may waive | States may waive protections | Eliminates immediately |

CBO estimates 21-23 million Americans will lose coverage under either AHCA or BCRA

Graham-Cassidy Bill

State-by-State Impact (2020-2027)



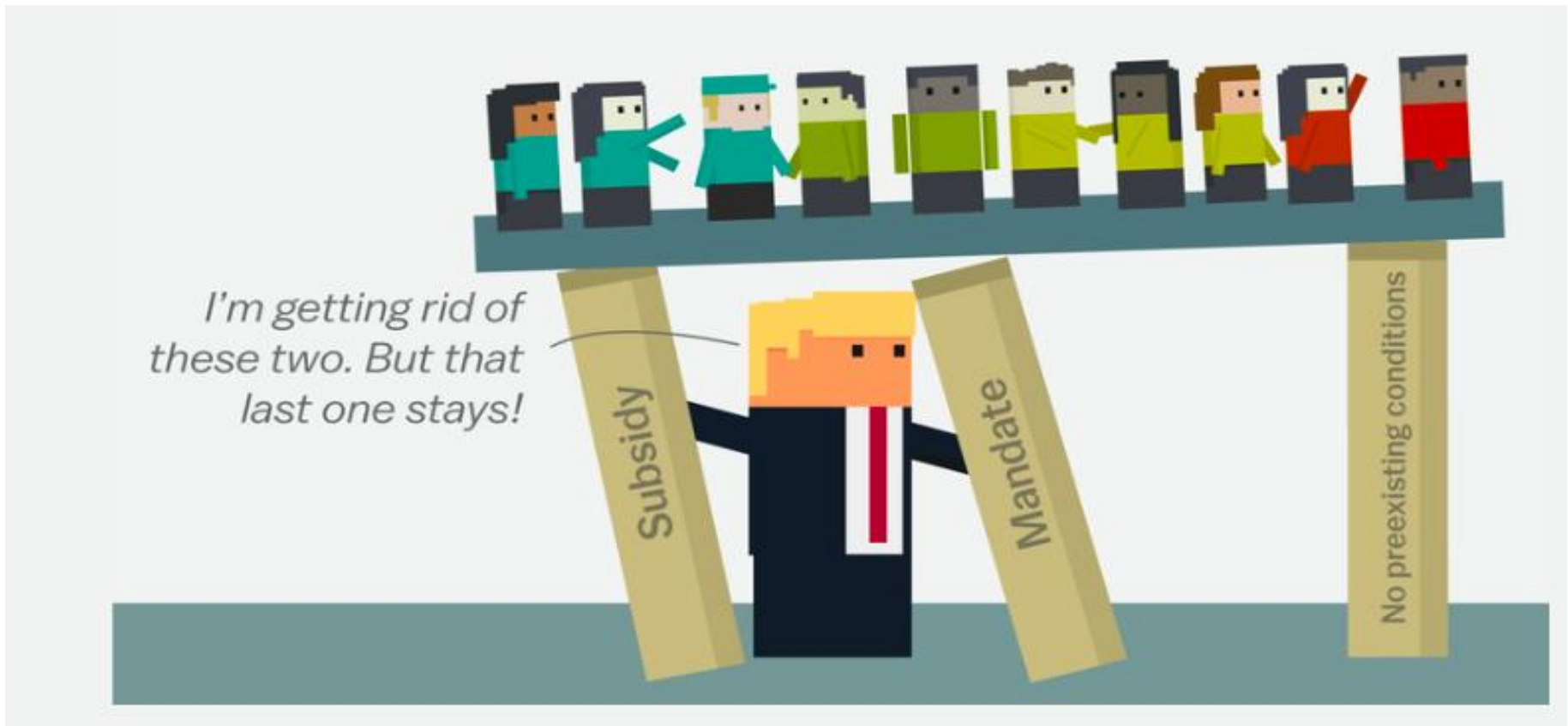
Source: Avalere (September 2017)

What Happens Next: Short-Term

- Changes continue to be made to the bill to garner more support from Republicans in the Senate
- Senate hearing took place Monday
 - Subject matter experts
 - State Medicaid insurance officials
 - Patient advocacy groups
- CBO released preliminary analysis of the bill on Monday (not a full score)
- Vote could be scheduled by end of week

What Happened?

- It's incredibly difficult to preserve protections for people with pre-existing conditions while slashing funding and deregulating insurance



Source: Vox News

What Happens Next: Long-Term

- Congress could pass a bipartisan “market stabilization” package
 - A package could include permanent funding for the cost sharing reduction (CSR) payments, reinsurance funding for insurance plans, and more flexibility for states to use 1332 waivers to shore up their individual markets
 - Consumer advocates are monitoring these efforts because there is also potential for a stabilization package to become a vehicle for more damaging provisions
- We could see Medicaid reforms and/or pieces of ACA repeal and replace tacked onto future reconciliation instructions or other must pass pieces of legislation
 - E.g., CHIP reauthorization at end of September

Administrative Actions

“The Secretary Shall Decide...”

The Secretary of HHS is granted discretion to implement key provisions of the ACA (e.g., over benefits, enforcement, and non-discrimination) thousands of times in the ACA legislative text

“(b) INTERVAL.—

“(1) IN GENERAL.—The Secretary shall establish a minimum interval between the date on which a recommendation described

“(a) IN GENERAL.—Not later than 12 months after the date of enactment of the Patient Protection and Affordable Care Act, the Secretary shall develop standards for use by a group health plan and a health insurance issuer offering group or individual

“(D) PENALTIES.—In developing the reporting requirements under paragraph (1), the Secretary may develop and impose appropriate penalties for non-compliance with such requirements.

“(B) STATES WITHOUT ISSUERS IN PROGRAM.—If no health insurance issuer applies to be a qualified nonprofit health insurance issuer within a State, the Secretary may use amounts appropriated under this section for the awarding of grants to encourage the establishment of a qualified nonprofit health insurance issuer within the State or the expansion of a qualified nonprofit health insurance issuer from another State to the State.

Executive Order 13765

- What it means (and doesn't mean):
 - Does not change any provision of the ACA, which is still law of the land
 - Directs HHS & other agencies implementing the ACA to use discretion (within bounds of law and Administrative Procedures Act) to ease “regulatory burden”
 - Cannot alter ACA regulations (e.g., benefits, non-discrimination, and individual mandate) without formal rule-making and notice and comment period, BUT agencies may use discretion to do things like expand hardship exemptions for the individual mandate or expand use of 1332 waivers
 - Signals priorities on ACA and sends a message to issuers that could damage the 2018 QHP market

Market Stabilization Rule

- Finalized in April 2017 and applies to individual market plans
- What it does:
 - **Tightens up Special Enrollment Periods (SEPs)**, creating new documentation and pre-enrollment verification requirements and additional eligibility criteria (e.g., evidence of prior coverage)
 - **Shortens open enrollment** to run from November 1 to December 15 (45 days shorter than last year)
 - **Allows issuers to deny enrollment until any owed premiums are paid** (only applies to products offered by same issuer and for premiums owed in previous 12 mos.)
 - **Allows issuers to sell plans with slightly higher cost sharing** by loosening actuarial value standards

CMS Guidance & Forthcoming Rulemaking

- Administration announced massive cuts to ACA outreach & enrollment funding:
 - Grants for the Patient Navigator program will be cut by 40%, from \$62.5 million last year to \$36 million this year
 - ACA advertising funding will be cut by 90%, from \$100 million last year to \$10 million this year
- CMS has issued Request for Information on potential changes to ACA regulations
 - Move toward more state flexibility and looser requirements for insurance plans (e.g., greater flexibility for 1332 waivers)
 - Could inform future rulemaking for the 2019 benefit year and changes to section 1557 regulation (ACA non-discrimination provision)

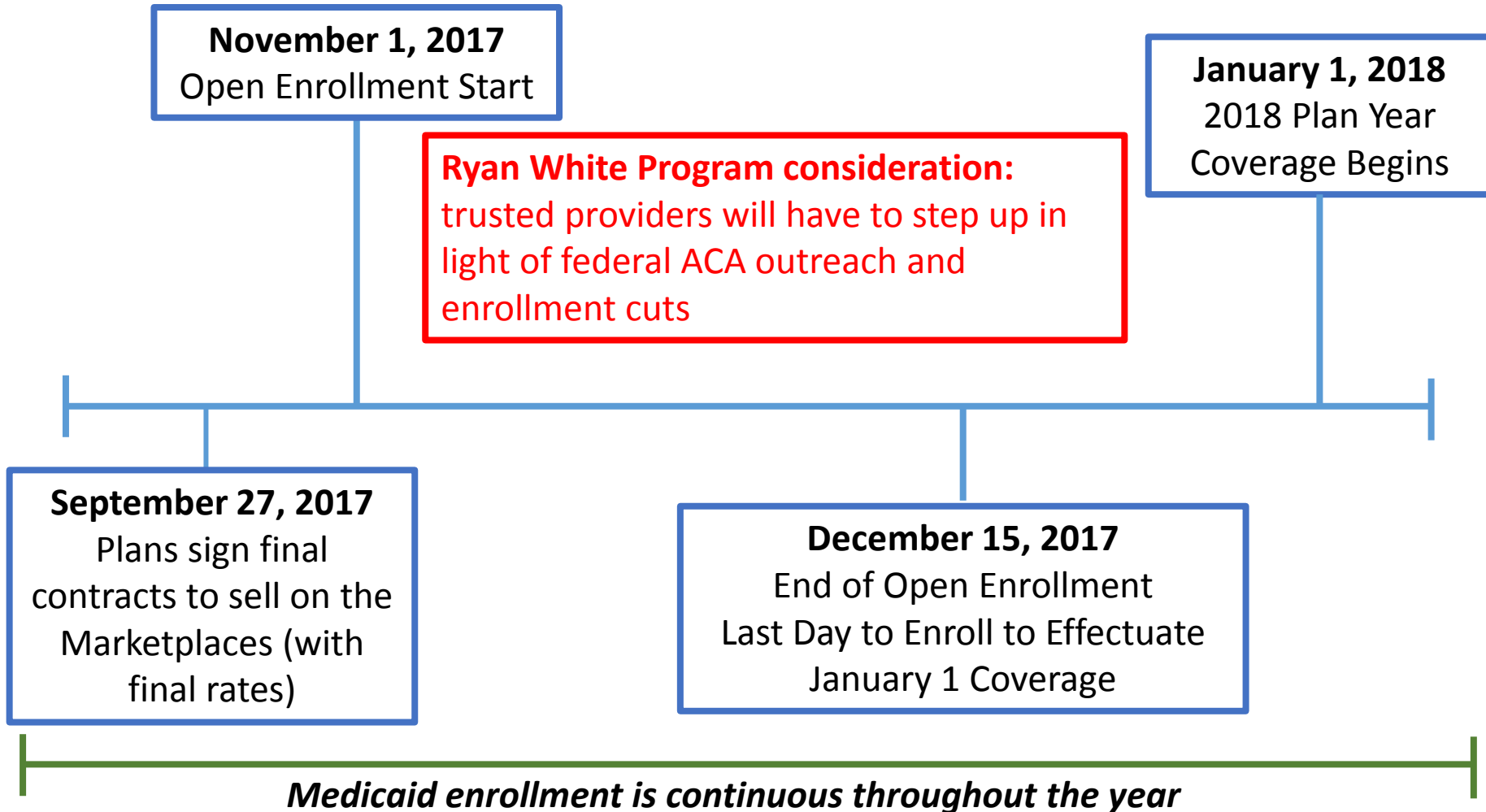
Threatened Populations

- Administration regulations, guidance, and statements are harming populations most impacted by HIV and hepatitis:
 - DACA program elimination
 - Transgender military ban
 - Statements on race and Black Lives Matter

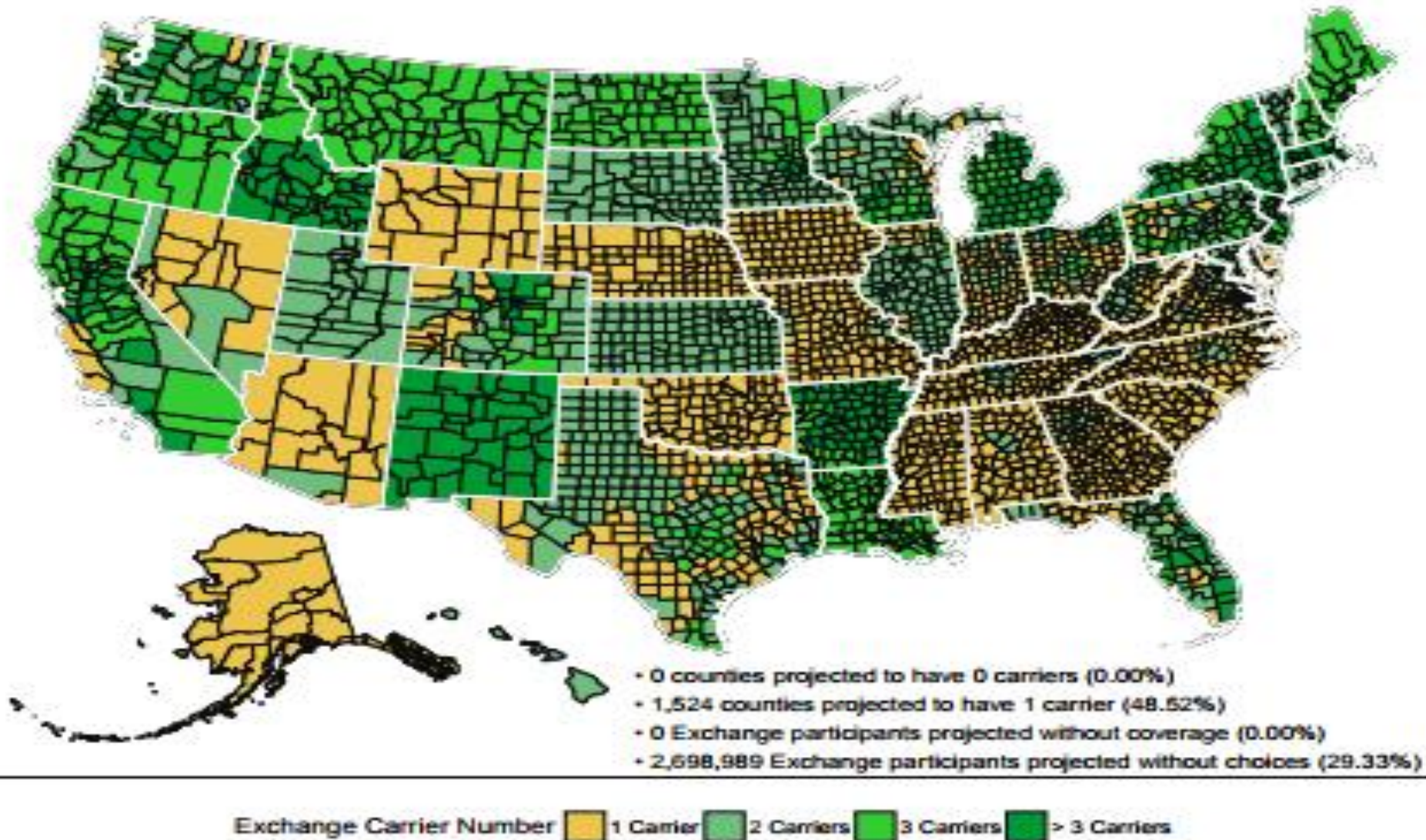


State Actions

What's New: OE5 Dates



Projected Participation in 2018 Marketplaces by County (*as of Sept. 20, 2017*)



State Action Steps

1) Start preparing enrollment workforce now

- Work with clients to understand new dates and update account information ahead of November 1
- Identify Navigators, Certified Application Counselors, and other assisters in your jurisdiction and make sure they are aware of ADAP role
- Consider partnering with an agent or broker
- Ensure that clients who received APTCs have filed their federal taxes

State Action Steps

2) Stay Calm!

- Address client and case manager concerns and questions early and often
- Engage department of insurance and enrollment partners
- Let NASTAD know how we can help!




State Action Steps

3) Monitor and Weigh in on State Flexibility

- Is your state applying for a 1332 waiver to make changes to its individual market?
- Have you weighed in with your congressional delegation to emphasize the importance of the ACA and Medicaid for people living with and at risk for HIV?

Questions & Discussion

Contact Information & Resources

- Amy Killelea, akillelea@nastad.org
- Resources
 - NASTAD Health Systems Integration program, <https://www.nastad.org/>
 - Center on Budget and Policy Priorities Beyond the Basics, <http://www.healthreformbeyondthebasics.org/>
 - Families USA, <http://familiesusa.org/>
 -  ○ In the Loop, <http://www.enrollmentloop.org/>
 - Health Affairs Blog (featuring national health policy treasure, Tim Jost), <http://healthaffairs.org/blog/>